



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision - DENIAL

Request for Variance

Jose & Jussara Rosa /Map 263, Lot 90

June 18, 2015

**Applicant: Jose & Jussara Rosa
18 Old Kings Road
Merrimack, NH 03054**

Location: 14 West Point Road, Moultonborough, NH (Tax Map 263, Lot 90)

On June 17, 2015, the Moultonborough Zoning Board of Adjustment opened a public hearing on the application of Jose & Jussara Rosa (hereinafter referred to as the "Applicant" and/or "Owner") for a variance from Article III. B (3 & 4) for the placement of an accessory structure (12' x 14' storage shed) located 15 ft. from the side property line where 20 ft. is required and located 30 ft. from the reference line (Lake Shorefront) where 50 ft. is required on the parcel located in the Residential Agricultural (RA) Zoning District.

Based on the application, testimony given at the hearings, and additional documentation and plan(s), the Board hereby makes the following findings of fact:


- 1) The property is located at 14 West Point Road (Tax Map 263, Lot 90).
- 2) The applicants are the owners of record for the lot.
- 3) Jussara Rosa presented the application for the variance.
- 4) The lot is located in the Residential Agricultural (RA) Zoning District.
- 5) The setbacks affected are the twenty foot (20') side line setback and the fifty foot (50') lake setback.
- 6) The applicant is proposing to place a 12' x 14' storage shed located approximately 15 ft. from the sideline setback where 20 ft. is required and 30 ft. from the reference line (Lake Shorefront) where 50 ft. is required.

- 7) The applicant had received a Building Permit, #7006, for the placement of a 12' x 14' shed on the property (noting that it is to be moved to comply with setbacks 07-29-14).
- 8) The applicant had received a NH DES Shoreland Permit by Notification (PBN) #2014-01599, for a 12' x 24' carport on six piers, a 10' x 10'3" deck off of back of house and a 12' x 14' shed in a different location that would have met setback requirements.
- 9) It was noted for the record that this application for variance relief is a result of an enforcement action by the Code Enforcement Officer as the shed was placed in a different location than approved on the PBN, and in a nonconforming location.
- 10) At the meeting on June 17, 2015, one abutter stated they had no objection to the proposed shed being located within the sideline setback.
- 11) It was noted for the record the board was in receipt of a letter from the West Point of Long Island Association stating they had no objection to the variance requested.
- 12) Granting the Variance would not be contrary to the public interest as the Board felt that the encroachment into the setbacks did not alter the character of the neighborhood nor threaten the welfare, safety or health of the public because there were other similar structures existing in the neighborhood.
- 13) Granting the Variance would be consistent with the spirit of the Ordinance as the Board felt that the encroachment into the setbacks did not alter the character of the neighborhood nor threaten the welfare, safety or health of the public because there were similar structures existing in the neighborhood.
- 14) By granting the Variance, substantial justice would be done because the harm in keeping the shed where it is now located would be much more than any harm to the general public.
- 15) Granting the Variance would not diminish the value of surrounding properties as other neighborhood properties as the shed fits the neighborhood and is of a higher value than some storage structures.
- 16) No Special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship because many of the other neighborhood lots are shaped like trapezoids, with narrowing building envelopes. In addition, the request is unreasonable because there are locations on the property where a new 12 ft. x 14 ft. shed could conform to the building envelope and be reasonable with regard to siting, usability and aesthetics.
- 17) On June 17, 2015, the Zoning Board of Adjustment voted by a vote of five (5) in favor (Stephens, Nolin, Zewski, Bickford, St. Peter) and none (0) opposed to deny the request for a variance,

...and to close the Public Hearing. They moved to direct Staff to draft a formal Notice of Decision for review and approval for signing at the next meeting.

The Board of Adjustment, on July 15, 2015, approved this formal Notice of Decision language and authorized the Chairman to sign the Notice of Decision and send to the applicant and place same in the case file by a vote of five (5) in favor (Stephens, Nolin, Zewski, Bickford, St. Peter), none (0) opposed.

The decision made to deny the variance on June 17, 2015 shall not take effect until thirty (30) days have elapsed and no request for rehearing has been filed in accordance with RSA 677:2, or that if such request has been filed, it has been dismissed or denied, in accordance with RSA 677:3.



Robert H. Stephens
Chairman, Zoning Board of Adjustment

Date 7-15-15